

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

RSA No.5634 of 2016 (O&M)

Date of decision:20.11.2018

Amarjit Kaur and another

... Appellants

Vs.

Sukhbir Kaur and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amit Arora, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-defendants have not been successful in defending the suit for mandatory injunction, whereby, they have been ordered to vacate the premises being licensee.

Mr. Amit Arora, learned counsel appearing on behalf of the appellant-defendants submitted that Amarjit Kaur is the widow of Major Singh son of Sadhu Singh, husband of the plaintiff. The plaintiff had been living abroad and the house is in occupation of widow and children of Major Singh and had a right to stay in the property, therefore, cannot be accorded the status of licensee. Discord, if any, had already been settled as FIR bearing no.44 dated 16.02.2011 registered by the plaintiff resulted into compromise. There is no specific admission with regard to status of licensee, therefore, the finding of the Courts below in this regard is wholly preposterous. The entire pith and substance of the written statement

if read with averment in para 7 would not tantamount to admission of the status of licensee.

I am afraid the aforementioned argument is not sustainable as status of son or a wife and the children in respect of house owned by father or mother is that of licensee, thus, non-admission or admission would pale into insignificance. Owner of the house permits the family members to live in his/her house and if otherwise, can always seek ejectment by way of mandatory injunction. Arriving of compromise in FIR, ibid would not change the circumstances. Defendants had not been able to prove on record that funds for purchase of the house were provided by Major Singh. All these factors have been taken care of by the Courts below.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 20, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No